

BLAKE et al
Appl. No. 09/367,261
January 15, 2009

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested.

Claims 6, 9 and 11 have been revised so as to be placed in independent form and to include the definition of the optional L group set forth in now cancelled claim 16. Claims 9 and 11 have been further amended to delete the reference to a nitroaromatic and claim 11 has also been revised to recite "indoloquinone" rather than "iminoquinone". Claim 17 has been revised for additional clarity and to depend from claim 6. Claims 20-23 and 25 have also been revised to depend from claim 6. New claims 26 and 27 have been added. These new claims parallel claim 17 but depend from claims 9 and 11, respectively. In addition to claim 16, claims 1-5, 13-15, 18 and 19 have been cancelled without prejudice. That claims have been revised/cancelled should not be taken as an indication that Applicants agree with any position taken by the Examiner. Rather, the amendments are offered merely to advance prosecution and Applicants reserve the right to pursue any deleted subject matter in a continuation application.

Claims 1-25 stand rejected under 35 USC 102(b) as allegedly being anticipated by Firestone et al. Withdrawal of the rejection is in order for the reasons that follow.

The claims as now presented include three independent claims (i.e., claims 6, 9 and 11), each of which defines compounds that are structurally distinct from the compounds of Firestone et al. A simple comparison of the chemical structures in independent claims 6, 9 and 11 makes this clear. The Examiner has not articulated why these claims have been included in the rejection, despite Applicants' specific request for clarification for the basis for their inclusion, that request being set forth in the first paragraph on page 3 of the Amendment filed November 6, 2007.

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Since the claims as presented are in no way anticipated by Firestone et al, withdrawal of the rejection is in order and same is requested.

Claims 1-25 stand rejected under 35 USC 112, second paragraph, as allegedly being indefinite. Withdrawal of the rejection is in order for the reasons that follow.

New independent claims 6, 9 and 11 are directed to "A compound of the formula". These claims do not include the terms "non-cytotoxic bioreductive moiety", "bioreduction", "species having an alkylating center so that said species undergoes a self-alkylation reaction" or "non-cytotoxic residue of the bioreductive moiety", to which the Examiner appears to object.

Claims 6, 9 and 11 do retain a reference to "therapeutic agent" (in the definition of E). This term has a well established meaning as evidenced by the fact that a search of the claims of issued U.S. patents using the search term ACLM/(therapeutic and agent) yields 4664 hits.

Reconsideration is requested.

This application is submitted to be in condition for allowance and a Notice to that effect is requested.

Respectfully submitted,

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